

ATTACHMENT 2

NEW YORK CODES, RULES AND REGULATIONS

***** THIS DOCUMENT REFLECTS CHANGES RECEIVED THROUGH MARCH 14, 2003 *****

TITLE 7. DEPARTMENT OF CORRECTIONAL SERVICES CHAPTER VIII. INSTITUTIONAL PROGRAMS PART 723. INMATE TELEPHONE CALLS

7 NYCRR § 723.3 (2003)

723.3 General policy relating to all inmate telephone calls

(a) Collect calls. Calls will be made collect, except for calls outside of the continental United States and some emergency telephone calls.

(b) Facility telephone schedule. "Call-home" program operations shall be permitted everyday, including holidays within the hours of 7:00 A.M. to 11:00 P.M. Each superintendent will determine suitable time frames for calling within those hours, and a schedule for calls will be established. Every effort will be made to maintain this schedule.

(c) Monitoring notice. The following notice shall be posted adjacent to any telephone to be used by inmates advising them that their telephone calls may be monitored. This notice shall be in both English and Spanish and shall state:

NOTICE

ALL INMATE TELEPHONE CONVERSATIONS ARE SUBJECT TO
ELECTRONIC MONITORING BY DEPARTMENTAL PERSONNEL.

AVISO

TODAS LAS LLAMADAS TELEFONICAS DE LOS RECLUSOS PUEDEN SER

ESCUCHADAS POR MEDIOS ELECTRONICOS
POR EL PERSONAL DEL DEPARTAMENTO.

(d) Negative correspondence and telephone list. (1) Each facility will maintain a negative correspondence and telephone list in the guidance and counseling unit case folder of each inmate.

(2) When a facility is advised that someone does not wish to receive telephone calls from an inmate, the name of this person shall be entered on the inmate's negative correspondence and telephone list. The inmate will be immediately notified in writing that the person has been removed from his/her "telephone list" and that disciplinary action may be taken if the telephone

is used in any manner to contact the person. In addition, the person's telephone number will be removed from the telephone system.

(3) If the facility is later advised that telephone calls from the inmate are no longer objectionable, the superintendent or his designee may, but need not, direct that the name of that person be removed from the inmate's negative correspondence and telephone list.

(4) An inmate telephone call to a person on his or her negative correspondence and telephone list should be handled as a serious violation of facility rules.

(e) Prohibited calls. (1) Inmates are prohibited from placing telephone calls to the following (unless the individual is a member of the inmate's immediate family e.g., wife, child, parent, grandparent, brother, sister, aunt or uncle):

(i) present or former employees of the Department of Correctional Services and their families;

(ii) present or former employees of the Division of Parole and their families;

(iii) present or former employees of Federal, State and local criminal justice agencies, including but not limited to police agencies, district attorneys, Federal and local correctional agencies, probation departments, and the families of such employees;

(iv) jurors involved in the conviction of the inmate, and their families;

(v) judges involved in the conviction or indictment of the inmate, and their families; and

(vi) crime partners who are not incarcerated.

(2) No inmate may place a telephone call to the residence of a victim of the crime(s) for which the inmate has been convicted or is presently under indictment regardless of whether immediate family members maintain the same residence, unless prior written authorization has been received from the Superintendent.

(3) No inmate may call the phone number of any person listed on a court order of protection which prohibits telephone communication, unless the order specifically states that the inmate is not prohibited from communication by phone with another person at that same phone number.

Note: Should the facility receive two or more orders, the terms of which appear to be in conflict with one another, the facility should contact Counsel's Office for direction.

(4) Inmates are prohibited from making telephone calls for the purpose of harassing or intimidating any person. Staff and inmates are advised that such telephone calls may violate Federal and/or State laws. Facility superintendents shall report serious and/or continuing telephone calls of this type to the proper law enforcement authorities.

(5) Inmates are prohibited from making telephone calls for the purpose of conspiring to violate Federal, State or local laws or ordinances, and are prohibited from using facility telephones to conduct a continuing criminal enterprise.

(6) Inmates are prohibited from making telephone calls to inmates in other New York State, Federal, other state, county or local correctional facilities.

Exception: In special situations, subject to the approval of the superintendents of the two facilities, inmate-to-inmate telephone calls between immediate family members or the parents of a child may, but need not be authorized once a month. Such telephone calls, when permitted shall be monitored.

(7) Inmates are prohibited from making telephone calls to persons under probation or parole supervision without the written approval of the superintendent and the parole officer who is supervising the parolee or the probation officer who is supervising the probationer. Such approvals will usually only be granted in cases involving immediate family members. A copy of the written approval of the superintendent and probation or parole officer authorizing such telephone calls will be retained in the inmate's guidance and counseling unit case file.

(8) Inmates are prohibited from making telephone calls, including toll-free 800 numbers, to order goods or services from private vendors or to conduct business-related activities.

(9) Inmates are prohibited from making telephone calls to Operator Information. Telephone operators handling the self-dial systems have been instructed not to accept such calls.

(10) Inmates are prohibited from making telephone calls to unrelated minor persons under 18 years of age without the written approval of the minor's parent or legal guardian.

(i) The parent or legal guardian must forward a letter to the superintendent granting such approval before such telephone calls may take place.

(ii) A copy of the letter from the parent or legal guardian granting such approval will be retained in the inmate's guidance and counseling unit case file.

(11) Inmate telephone calls and telephone conversations shall be restricted to the telephone number dialed or otherwise placed by or for the inmate. Telephone call forwarding or third-party phone calls are prohibited.

(12) An inmate may not use another inmate's PIN number to place calls.

(f) Calls upon transfer or return to a facility.

(1) Transferred inmates. Within 24 hours of arrival at a new facility an inmate shall be permitted one collect telephone call to the family. If security precautions prevent the inmate from placing this call, a staff person designated by the superintendent, usually from the guidance and counseling unit, shall make the call to a person of the inmate's choice.

(i) Exception. This procedure does not apply to an inmate in "transit status" or temporarily at a transit facility overnight or for a weekend during transfer, but it does apply to inmates in holding units such as Cossackie, Great Meadow, and Sing Sing.

(2) Out to court/hospital. An inmate out to court or in a hospital for a period of 5 days or more will be allowed to make a collect telephone call within 24 hours of return to the correctional facility. Collect calls from an outside hospital, other than a secure ward, may be made only with the approval of the superintendent or his/her designee.

(3) Returned parole violators. A returned parole violator will be allowed to make one collect telephone call within 24 hours after arrival to a person of his/her choice.

(g) Emergency calls.

(1) (i) Whenever an inmate must place any type of emergency telephone call, the inmate shall contact his assigned correction counselor, explain the emergency situation, and request that an emergency telephone call be permitted.

(ii) The correction counselor will make a recommendation to the senior correction counselor, and if the senior correction counselor approves, the call can be placed. Inmates confined in SHU status must have the superintendent's approval.

(iii) In the absence of a correction counselor or a senior correction counselor, the inmate shall contact the watch commander or chaplain, and one of them shall make a decision whether the request for an emergency telephone call should be granted. The decision of the watch commander or chaplain does not require additional approval, but the senior correction counselor must be advised the next day of the decision.

(2) Facility correction counselor staff shall make chronological entries in the inmate's guidance and counseling unit case folder whenever an emergency telephone call is approved and completed. This chronological entry shall clearly indicate:

(i) the date of the call;

(ii) the name of the correction counselor, senior correction counselor, or other employee who authorized the call;

(iii) the name and telephone number of the person to whom the call was made; and

(iv) the nature of the emergency call.

(3) Whenever possible, emergency telephone calls shall be collect calls to the person receiving the call.

(4) When a person receiving the emergency call is unable and/or unwilling to accept a collect call, the cost of the call will be charged to the inmate. The assisting employee shall contact the operator after the call has been completed and request the amount of the toll. A disbursement form authorizing payment for the call will then be completed, signed by the inmate and forwarded to the fiscal office for posting. Any charge from the telephone company related to securing this information will be borne by the facility.

(5) In cases of extreme emergency, a senior correction counselor, chaplain or watch commander may authorize that emergency telephone calls be made at facility expense. However, this procedure should only be permitted when it is clear that both the inmate and the party receiving the call cannot pay for the call.

(6) Whenever a senior correction counselor, chaplain or watch commander authorizes an emergency call at the facility's expense, a chronological entry shall be made in the inmate's guidance and counseling unit case folder clearly indicating the reason(s) why this unusual procedure was permitted, as well as recording the other information required pursuant to this subdivision.

(h) Calls outside the continental United States. For purposes of this Part, calls to Puerto Rico and Canada shall be regarded as the same as calls within the "continental United States." Telephone calls outside of the continental United States will be employee-assisted pursuant to section 723.4 of this Part, with the following additional specifications:

(1) Calls will be permitted two times per month, except in emergency situations;

(2) Calls must first be checked by an employee designated by the superintendent to verify whether:

(i) the inmate has sufficient funds in his/her account to cover the cost of the call; and

(ii) the inmate has not reached the two call per month limit.

(3) All toll costs will be charged to the inmate. The assisting employee shall contact the operator after the call has been completed and request the amount of the toll. A disbursement form authorizing payment for the call will then be completed, signed by the inmate, and forwarded to the fiscal office for posting. Any charge from the telephone company related to securing toll information will be borne by the facility.

(4) In cases of extreme emergency, the senior correction counselor may authorize emergency telephone calls at the facility's expense. However, this procedure should only be permitted when it is clear that both the inmate and the party receiving the call cannot pay for the call. In such cases, a chronological entry shall be made in the inmate's guidance and counseling unit case folder clearly indicating the reason(s) why this unusual procedure was permitted, as well as recording the other information required by subdivision (g) of this section.

Statutory authority: Correction Law, § 112

Added 723.3 on 8/28/86; amended 723.3 on 5/04/94; repealed 723.3(e)(1)(iv) on 4/11/01; renumbered 723.3(e)(1)(v) to be (iv) on 4/11/01; renumbered 723.3(e)(1)(vi) to be (v) on 4/11/01; renumbered 723.3(e)(1)(vii) to be (vi) on 4/11/01; added 723.3(e)(2) on 4/11/01; added 723.3(e)(3) on 4/11/01; renumbered 723.3(e)(2) to be (4) on 4/11/01; renumbered 723.3(e)(3) to be (5) on 4/11/01; renumbered 723.3(e)(4) to be (6) on 4/11/01; renumbered 723.3(e)(5) to be (7) on 4/11/01; renumbered 723.3(e)(6) to be (8) on 4/11/01; renumbered 723.3(e)(7) to be (9) on 4/11/01; renumbered 723.3(e)(8) to be (10) on 4/11/01; renumbered 723.3(e)(9) to be (11) on 4/11/01; renumbered 723.3(e)(10) to be (12) on 4/11/01.